

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

DAVID MICHAEL SMITH, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. G-09-152
	§	
BENNIE MATHEWS, <i>et al</i> ,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER

Before the Court is a Report and Recommendation from the Magistrate Judge dated January 20, 2010, which recommends that the Motion for Preliminary Injunction of Plaintiffs, David Michael Smith and Rona Smith, be granted. On February 2, 2010, the Defendants filed objections to the Report and Recommendation. In their objections, the Defendants do not challenge the entry of a preliminary injunction, they simply object to the proposed scope of the injunctive relief recommended by the Magistrate Judge.

This Court is required to make a *de novo* review of that portion of the Report and Recommendation to which objection has been made. 28 U.S.C. § 636(b)(1)(C) Having done so, the Court finds that the Defendants' objections are persuasive and it ACCEPTS the Report and Recommendation of the Magistrate Judge except as hereinafter modified.

It is, therefore, ORDERED that Plaintiffs' Motion for a Preliminary Injunction (Instrument no. 3) is GRANTED.

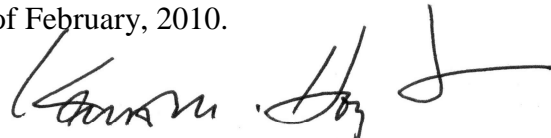
It is further ORDERED that the Defendants, Bennie Matthews, Board Chair, Ralph E. Holm, Vice-Chair, Rosalie Kettler, Board Secretary, Donald L. Criss, Annette M. Jenkins, Pharm D., Clemon Prevost, Nick E. Stepchinski, in their individual and

official capacities and the College of the Mainland, and all those in active concert or participation with them are enjoined and restrained from:

- (1) excluding members of the public from speaking at College of the Mainland Board meetings during the public comment portion of the meeting on matters of public concern relevant to the limited forum of the board meeting on the basis of the content or viewpoint of their speech, and
- (2) unreasonably limiting the number of persons who may speak at College of the Mainland Board meetings during the public comment portion of the meeting on the same matters of public concern relevant to the limited forum of the board meeting, subject to any reasonably prescribed time limits for the public comment portion of the meeting, pending a trial on the merits of this action, or until further Order of this Court.

It is further **ORDERED** that no bond or other security shall be required of Plaintiffs to support the issuance of this preliminary injunction.

SIGNED at Houston, Texas this 9th day of February, 2010.

A handwritten signature in black ink, appearing to read 'Kenneth M. Hoyt', written over a horizontal line.

Kenneth M. Hoyt
United States District Judge